

MINUTES OF THE WATER / TOWN BOARD MEETING OF MARCH 23, 2016

PRESENT: Deputy Supervisor Andy Gillette  
Council Bob Adams  
Mike Saglibene  
Attorney Thomas Reilly  
Clerk Linda Cross  
ABSENT: Supervisor Ed Fairbrother  
Council Lee Giammichele

Deputy Supervisor Gillette opened the Water Board meeting at 7:00 p.m., and requested those present to participate in the Pledge of Allegiance.

**UNFINISHED BUSINESS**

RESOLUTION NO. 109-16  
PURCHASE/ 2002 JOHN DEERE 1435 MOWER APPROVED

Resolution by: Adams  
Seconded by: Saglibene

WHEREAS the Town Supervisor and the Water Systems Supervisor recognize the need to purchase a mower for the Water Department in order to keep the pump houses and tank areas mowed, and

WHEREAS the Parks Department is purchasing a new 52" Exmark mower to replace the John Deere 1435 mowers they have and they have agreed to sell the Water Department the 2002 John Deere 1435 for \$900.00, Res. No. 85-16, and

WHEREAS this equipment will be used to maintain Water Department property and,

WHEREAS for environmental review purposes, purchasing is a Type II action in accordance with SEQRA 6 NYCRR, Part 617.5(c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor and Water Systems Supervisor to purchase the 2002 John Deere 1435 mower from the Parks Department for an amount not to exceed \$900.00.

CARRIED: AYES: Saglibene, Adams, Gillette  
NAYS: None ABSENT: Fairbrother, Giammichele

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RESOLUTION NO. 110-16  
AWARDING BID PURCHASE BOOSTER PUMP STATION APPROVED

Resolution by: Saglibene  
Seconded by: Adams

WHEREAS a bid advertisement was published in the Elmira Star Gazette (Resolution 79-16), and bids were received by and opened at 1:00 pm on March 17, 2016, and

WHEREAS the following Booster Pump Station (purchase & installation) Bids were received:

1) Streeter Associates	\$434,000
2) Elmira Structures	\$448,000
3) Edger Enterprises	\$460,000
4) ProCon Construction	\$518,000
5) Vacri Constructon	\$544,000
6) CO Falter Construction	\$571,101
7) G. DeVincentis & Sons Const. Co.	\$587,000
8) Blue Heron Construction	\$694,822

WHEREAS the Town has received a written recommendation from Hunt Engineering recommending the bid be awarded to Streeter Associates of Elmira, NY, and

WHEREAS the Town Supervisor also recommends the bid be awarded to Streeter Associates of Elmira, NY, which was within budget and the lowest bid and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR Part 617.5(c) (7, 20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Water Board awards the bid proposal to Streeter Associates of Elmira, NY, contingent upon the final review of the bid documents by the Town attorney, for the purchase and installation of the Booster Pump Station for Water District 5 for a price not to exceed \$434,000.00, (four hundred thirty four thousand dollars).

CARRIED: AYES: Saglibene, Adams, Gillette  
NAYS: None ABSENT: Fairbrother, Giammichele

Deputy Supervisor Gillette closed the Water Board Meeting at 7:02 p.m.

Deputy Supervisor Gillette opened the Town Board Meeting at 7:03 p.m.

**CONCERNS OF THE PEOPLE** – Ashur Terwilliger, Farm Bureau, State Board of Director– District 4 spoke in regards to the newest zoning ordinance regarding farm animals, stated it was too broad:

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- He believe this can be handled in a different manor
- There are ways to Control the agricultural offenders
- How important the honey bees are to pollenate, fruits, vegetables and flowers.
- Need help, give him a call, he has helped a lot of Town Boards with question and concerns.

Lenny Boulas, President of the Soaring Capital bee keepers, spoke on how profitable Honey Bees and their hives are, and that Honey Bees sting only when stepped on. Scott invited the Town Board to visit one of the yards where they teach classes.

Jack Sincock, local Nuisance Wildlife Control officer, licensed by: NYS D.E.C, No. 230, mentioned how Big Flats should promote more of Farming, instead of restricting what a tax payer can do on his property. Mr. Sincock ask for the Board to vote to repeal the new zoning law and start over again. Deputy Supervisor Gillette, stated it's a living document, and can be changed. Gillette, mentioned he was very glad to have people coming in to give their concerns, and information.

Scott Thompson, VP Soaring Capital Bee Keepers, handed out information regarding, how and why bees sting.

Councilperson Saglibene, showed the audience the Zoning Map, and how the board is trying to hold a level of expectation, we are not trying to turn anyone away from farming, people moving into the Town not wanting to live next door to a cow or other farm animals.

Tony Ceece, stated the zoning amendment was passed to quickly, a change this big should have more significant communication for the residents, like the large signs along side of the roads. Mr. Ceece also spoke on the Pollinators being critical to the environment, and the Bee keepers are critical to keep the bee population up. Mr. Ceece stated that the board needs to rescind this until they do the environmental impacting statement.

Ed Fairbrother (as a guest in the audience) asked people with concern to come in and talk with him, and only one came in. If anyone has information they would like to share, please come in we are open for discussion. The Board will look at this thoughly. Again we ask the citizen to come in and speak to us we want to make this right, you are the people and we work for you that's what we are here for.

Chuck Annis, Maple Street, has honey bees, he mentioned how his bees help pollinate his neighbors gardens, he does make sure no one gets hurt, if one of his neighbors told him that they were extremely allergic to bees, my bees would leave, that is common curtesy for your neighbors. It should not be decided by legislation.

There's about 45 to 50 people in the Town of Big Flats who are bee keepers.

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Attorney Reilly spoke we have to draw an Ordinance that's easy to understand and comply with all of your request. We are open to meet with people regarding suggestions on how this will work, and to give us more information.

Councilperson Adams gave a sincere thanks to the Soaring Capital Bee Keepers that attended the Town Board meeting, and for all the great information and resources they presented us, to rewrite this and get it right.

Lenny Boulas, President of the Soaring Capital bee keepers, thanked the Town Board for listening and working with them.

Deputy Supervisor Gillette stated how we strive on Team Work and working together, and communication. Gillette also reflected on how we will work harder with signage, to get more information out to the public, and thanked the audience for attending the meeting with information for the board and Code Department.

### **MINUTES**

Councilperson Adams made a motion, seconded by Councilperson Saglibene to approve the Town Board minutes of February 24, 2016, as presented. All in favor except for Supervisor Fairbrother, and Councilmen Giammichele who was absent, motion carried.

Councilperson Adams made a motion, seconded by Councilperson Saglibene to approve the Town Board minutes of March 9, 2016, as presented. All in favor except for Supervisor Fairbrother, and Councilmen Giammichele who was absent, motion carried.

### **UNFINISHED BUSINESS**

#### **RESOLUTION NO. 111-16 AWARDING BID TO PURCHASE, TREE SHEAR APPROVED**

Resolution by: Adams

Seconded by: Saglibene

WHEREAS the Commissioner and the Deputy Commissioner of Public Works recognize the need to purchase a Dymax Tree Shear attachment for the Cat Excavator in the Highway Department, and

WHEREAS the Dymax Tree Shear attachment will be utilized by the Highway Department for cutting and trimming trees, and

WHEREAS the purchase of a Dymax Tree Shear attachment was planned and \$30,000.00 budgeted for purchase for the year 2016, and

WHEREAS a bid advertisement was placed by the Town of Big Flats, and bids were received on March 14, 2016 and

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RESOLUTION NO. 111-16, AWARDING BID TO PURCHASE, TREE SHEAR APPROVED  
continued

WHEREAS the following Tree Shear bids were received:

Five Star Equipment	\$38,000.00
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WHEREAS Five Star Equipment has the lowest bid for the Tree Shear, and

WHEREAS other equipment purchases have come in under budgeted amounts for year 2016, allowing us to absorb the additional cost in our Highway Machinery Capital Outlay Account, and

WHEREAS the Commissioner of Public Works recommends the bid be awarded to Five Star Equipment, and

WHEREAS, for environmental review purposes, administration is a Type II Action in accordance with SEQRA 6NYCRR Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board awards the bid proposal to Five Star Equipment at a total cost not to exceed \$38,000.00 for the purchase of a Tree Shear.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

RESOLUTION NO. 112-16  
AWARDING BID TO PURCHASE 2011 JOHN DEERE MOTOR GRADER APPROVED

Resolution by: Saglibene

Seconded by: Gillette

WHEREAS the Commissioner and the Deputy Commissioner of Public Works recognize the need to purchase a 2011 or Newer Motor Grader in the Highway Department, and

WHEREAS the purchase of a Motor Grader was planned and \$180,000.00 budgeted for purchase for the year 2016, and

WHEREAS a bid advertisement was placed by the Town of Big Flats, and bids were received on March 14, 2016, and

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RESOLUTION NO. 112-16, AWARDING BID TO PURCHASE 2011 JOHN DEERE MOTOR GRADER APPROVED continued

WHEREAS the following motor grader bids were received:

Five Star Equipment	New 2016 John Deere Motor Grader	\$234,583.10
	Used 2013 John Deere Motor Grader	\$208,000.00
Bradco Supply Co.	Used 2011 John Deere Motor Grader	\$159,900.00

WHEREAS Bradco Supply Co. has the lowest bid for a 2001 or Newer Motor Grader, and

WHEREAS the Commissioner of Public Works recommends the project bids be awarded to Bradco Supply Co., and

WHEREAS, for environmental review purposes, administration is a Type II Action in accordance with SEQRA 6NYCRR Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board awards the bid proposal to Bradco Supply Co. at a total cost not to exceed \$159,900.00 for the purchase of a Used 2011 John Deere Motor Grader.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

RESOLUTION NO. 113-16  
AWARDING BID TO PURCHASE 2008, 60' TELESCOPIC STRAIGHT BOOM  
APPROVED

Resolution by: Adams

Seconded by: Gillette

WHEREAS the Commissioner and the Deputy Commissioner of Public Works recognize the need to purchase a Man Lift for in the Department of Public Works, and

WHEREAS a Man Lift was budgeted for in the year 2015, and

WHEREAS the budgeted amount was \$15,000.00 and was encumbered for year 2016

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RESOLUTION NO. 113-16, AWARDING BID TO PURCHASE 2008, 60'  
TELESCOPIC STRAIGHT BOOM APPROVED continued

WHEREAS a bid advertisement was placed for a 2008 or Newer Telescopic Straight Boom Lift 4x4 with option #1 (Trade allowance for a 2001 Johnston Sweeper), and bids were received on March 14, 2016, and

WHEREAS the following Man Lift bids were received:

United Rental	Man Lift	\$38,500.00
	Option #1	No Trade In
Bradco Supply Co.	Man Li	\$30,000.00
	Option #1	\$15,000.00
Milton Cat	Man Lift	\$48,800.00
	Option #1	No Trade In
Admar Supply	Man Lift	\$65,000.00
	Option #1	No Trade In
Hertz Equipment Rental Co.	Man Lift	\$49,860.00
	Option #1	No Trade In

WHEREAS Bradco Supply Co. had lowest bid for \$30,000.00, and the only bid to contain Option #1, and

WHEREAS the Commissioner of Public Works recommends the bid be awarded to Bradco Supply Co., and

WHEREAS, for environmental review purposes, administration is a Type II Action in accordance with SEQRA 6NYCRR Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board awards the bid proposal to Bradco Supply Co. at the total cost not to exceed \$15,000.00 with Option #1 (Trade allowance for a 2001 Johnston Sweeper), for the purchase of 2008 Telescopic Straight Boom Lift 4x4.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

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**NEW BUSINESS**

RESOLUTION NO.114-16  
BUDGET TRANSFERS – WATER DISTRICT #4 APPROVED

Resolution by: Saglibene  
Seconded by: Gillette

WHEREAS a memorandum was received from the Bookkeeper dated, March 16, 2016, requesting to authorize the following Water District #4 budget transfers for the following overspent budget, and

WHEREAS for environmental review purpose, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Bookkeeper to fulfill the following budgets transfers:

**Budget Transfers-Water District #4**

Please authorize a budget transfer for the following overspent budget:

To	Transmission & Distrib –\$4.8340.0800	60.00
From	Workers Compensation –\$4.9040.0800	60.00

CARRIED: AYES: Saglibene, Adams, Gillette  
NAYS: None ABSENT: Fairbrother, Giammichele

RESOLUTION NO.115-16  
ABSTRACT OF AUDITED VOUCHERS FOR MARCH 23, 2016 APPROVED

Resolution by: Saglibene  
Seconded by: Adams

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for March 23, 2016, and order the bills paid, when in funds, for the following:

GENERAL FUND	\$ 150,836.95
HIGHWAY FUND	\$ 25,273.90
SEWER DISTRICT#1	\$ 3,304.87
WD 4&5 Capital Project #12	\$ 100.00
WATER DISTRICT #4	\$ 324.43
WATER DISTRICT #5	\$ 4,327.87
LIGHTING DISTRICT	\$ 591.19
TRUST FUND	\$ 1,000.00

CARRIED: AYES: Saglibene, Adams, Gillette  
NAYS: None ABSENT: Fairbrother, Giammichele



RESOLUTION NO. 116-16

RHODES, STEEGE HILL RD. TIMBER HARVEST PERMIT #76.00-2-57,  
PROPERTY OWNED BY JAMES T. RHODES P.O. BOX 15, BIG FLATS NY 14814  
APPROVED

Resolution by: Adams

Seconded by: Gillette

WHEREAS a Timber Harvesting Application has been received from Gutchess Lumber Company Inc. to harvest 4 Acres of selectively marked timber

WHEREAS the Town Board finds this action to be an Unlisted Action under SEQRA and to have no significant effect on the environment based on the following facts:

1. The timber harvesting will begin between March 24, 2016 to June 1, 2016;
2. All roads will be graded and water bars installed at completion
3. The landing areas and all skid roads will be smoothed and free of debris, also the landing and skid roads will be seeded with a conservation mix after the harvest is complete; now

BE IT THERE FOR RESOLVED the application for a timber harvesting permit submitted by Gutchess Lumber Company Inc. is approved as follows:

1. The logging operation, as proposed, will involve trucks using Steege Hill Road to S. Corning Rd. to NYS Route 352 to I86. Trucks hauling logs will be required to display a valid safety inspection sticker on the windshield;
2. The transport of logs may only occur between the hours of 9:00am to 7:00pm daily with the exception that on days public schools are in session the transport of logs may not occur between the hours of 1:30 and 4:30PM.
3. All roads shall be kept free of dust and debris created by the logging operation. The roadway will be inspected and cleaned by the logger on a daily basis as needed and must be cleaned when required by the Code Enforcement Officer as a result of any inspections.

**Prior to Obtaining Permit**

4. A performance guarantee in the form of a certified check for \$1200 (received March 10, 2016) must be posted with the Code Enforcement Office before any timber harvesting may begin. The performance guarantee will be returned upon the satisfactory completion of all logging operations, compliance with conditions of this resolution, and a final inspection of the timber harvesting site by the Code Enforcement Officer, and a representative from Chemung County Soil and Water Conservation Service, if deemed necessary.
5. An approved Driveway/Curb-Cut and/or Road Permit must be obtained from the Town of Big Flats Department of Public Works **prior** to any transferring of heavy equipment or harvest lumber/materials.

**Prior to any Logging Operations**

6. Proof of Vehicle, General Liability, and Workers Compensation Insurance with minimum liability coverage for personal injury or death of \$1,000,000 and for property damage of \$250,000 for logging operations, unless authorized by the

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Town Board and the Town Attorney. The Town of Big Flats must be listed as an additional insured and said proof must be filed with the Code Enforcement Office at least 48 hours before commencing any logging operations. Said proof of insurance must be approved by the Town Attorney prior to commencement of work.

7. Notification, in the form of a letter and a copy of the map showing the approved logging area must be provided to all abutters.

### **During Harvesting Activity**

1. The logger shall notify the Code Enforcement Officer within five days of completion to Coordinate onsite inspections.
2. The logging site shall be subject to periodic inspections by the Code Enforcement Officer, and Chemung County Soil & Water Conservation Service Representatives at any time during the course of the operation. These inspections will be done between 10:00am and 4:00pm.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

### RESOLUTION NO. 117-16

BACKHERT TIMBER HARVEST PERMIT TAX #46.00-2-72, PROPERTY OWNED BY KINGSTON W BACHERT RESIDING AT 1303 WHITE KNOLL RD. ULYSSES, PA 169218 APPROVED

Resolution by: Saglibene

Seconded by: Adams

WHEREAS a Timber Harvesting Application has been received from CF Cutting LLC (Justin Clark) at 106 Eachers Hollow Rd. Horseheads, NY 14845 to harvest 50 acres to include a selective cut of hard and soft timbers on 50 acres with diameters no less than 16" excluding Ash to be cut at a minimum diameter of 14".

WHEREAS the Town Board finds this action to be an Unlisted Action under SEQRA and to have no significant effect on the environment based on the following facts:

1. The timber harvesting will begin March 24, 2016 to May 30, 2016;
2. All roads will be graded and water bars installed at completion
3. The landing areas and all skid roads will be smoothed and free of debris, also the landing and skid roads will be seeded with a conservation mix after the harvest is complete, now

**BE IT THERE FOR RESOLVED**, the application for a timber harvesting permit submitted by Mr. Justin Clark owner of CF Cutting, LLC is approved as follows:

1. The logging operation, as proposed, will involve trucks using Eachers Hollow Road to Hibbard Rd to Daniel Zenker Drive to I86. Trucks hauling logs will be required to display a valid safety inspection sticker on the windshield;

2. The transport of logs may only occur between the hours of 9:00am to 7:00pm daily with the exception that on days public schools are in session the transport of logs may not occur between the hours of 1:30 and 4:30PM.
3. All roads shall be kept free of dust and debris created by the logging operation. The roadway will be inspected and cleaned by the logger on a daily basis as needed and must be cleaned when required by the Code Enforcement Officer as a result of any inspections.

**Prior to Obtaining Permit**

4. A performance guarantee in the form of a certified check for \$1500 must be posted with the Code Enforcement Office before any timber harvesting may begin. The performance guarantee will be returned upon the satisfactory completion of all logging operations, compliance with conditions of this resolution, and a final inspection of the timber harvesting site by the Code Enforcement Officer, and a representative from Chemung County Soil and Water Conservation Service, if deemed necessary.
5. An approved Driveway/Curb-Cut and/or Road Permit must be obtained from the Town of Big Flats Department of Public Works **prior** to any transferring of heavy equipment or harvest lumber/materials.

**Prior to any Logging Operations**

6. Proof of Vehicle, General Liability, and Workers Compensation Insurance with minimum liability coverage for personal injury or death of \$1,000,000 and for property damage of \$250,000 for logging operations, unless authorized by the Town Board and the Town Attorney. The Town of Big Flats must be listed as an additional insured and said proof must be filed with the Code Enforcement Office at least 48 hours before commencing any logging operations. Said proof of insurance must be approved by the Town Attorney prior to commencement of work.
7. Notification, in the form of a letter and a copy of the map showing the approved logging area must be provided to all abutters.

**During Harvesting Activity**

1. The logger shall notify the Code Enforcement Officer within five days of completion to Coordinate onsite inspections.
2. The logging site shall be subject to periodic inspections by the Code Enforcement Officer, or the Chemung County Soil & Water Conservation Service Representatives at any time during the course of the operation. These inspections will be done between 10:00am and 4:00pm.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

RESOLUTION NO.118-16  
TOWN POLICY ON WORKPLACE VIOLENCE AS SET FORTH HEREIN  
APPROVED

Resolution by: Gillette

Seconded by: Adams

WHEREAS the NY State legislature enacted in 2006 the Workplace Violence Prevention Act requiring all public employees are protected by a workplace violence protection program set in place by all NY State municipalities, and

WHEREAS that act required all municipalities to establish written workplace violence protection programs and policies, now

THEREFORE BE IT RESOLVED that the following Town of Big Flats Workplace Anti-Violence Policy/Program be adopted and a copy thereof be disseminated to all employees and be given to all new employees on their first day of work:

Town of Big Flats

**Town of Big Flats Workplace Anti-Violence Policy/Program**

**A. Intent**

The Town of Big Flats has a commitment to promoting a safe and secure work environment that promotes the achievement of its mission of serving the public. The Town, employees, volunteers, and appointed individuals (hereafter called employees) of the Town are expected to maintain a working environment free from violence, threats of harassment, threats of violence, intimidation, or coercion. Such acts that involve or affect the employees of the Town will not be tolerated. While these behaviors are not prevalent at the Town of Big Flats, the Town Board recognizes that no organization is immune.

The purpose of this policy is to address the issue of potential workplace violence in our Town, prevent workplace violence from occurring to the fullest extent possible, and set forth procedures to follow when such violence has occurred. This policy is written to meet the requirements of NYS Labor Law, Section 27-b.

**B. Policy**

The Town of Big Flats prohibits workplace violence. Violence, threats of violence, intimidation, harassment, coercion, or other threatening behavior towards people or property will not be tolerated. Complaints involving workplace violence will not be ignored and will be given the serious attention they deserve. Individuals who violate this policy may be removed from Town property or work area and are subject to disciplinary and/or personnel action up to and including termination, consistent with Town policies,

rules and collective bargaining agreements, and/or referral to law enforcement authorities for criminal prosecution.

The Town, at the request of an employee or at its own discretion, may prohibit members of the public, including family members, from seeing an employee on Town property or workplace unless necessary to transact Town-related business. This policy particularly applies in cases where the employee suspects that an act of violence will result from an encounter with said individual(s).

### **C. Scope of the Policy**

All employees, appointed individuals, members of the public, vendors, contractors, consultants, and others who do business with the Town, whether in a Town facility or off-site location (workplace) where Town business is conducted, are covered by this policy. This policy also applies to other persons not affiliated with the Town, such as former employees and visitors. This policy includes violence between employees, employees and public, and employees and contractors.

### **D. Definitions**

**Workplace violence** is any behavior that is violent, threatens violence, coerces, harasses, or intimidates others, interferes with an individual's legal rights of movement or expression, or disrupts the workplace, the work environment, or the Town's ability to provide services to the public. Examples of workplace violence include, but are not limited to:

1. Disruptive behavior intended to disturb, interfere with or prevent normal work activities (such as yelling, using profanity, verbally abusing others, hand gestures, or waving arms and fists).
2. Intentional physical contact for the purpose of causing harm (such as slapping, jabbing, stabbing, punching, striking, shoving, or other physical attack).
3. Menacing or threatening behavior such as throwing objects, pounding on a desk or door, damaging property, stalking, or otherwise acting aggressively; or making oral or written statements specifically intended to frighten, coerce, or threaten. Behavior that creates a hostile work environment where a reasonable person would interpret such behavior as constituting evidence of intent to cause harm to individuals or property.
4. Possessing firearms, imitation firearms, BB guns, paint ball guns, pellet guns, knives with blades longer than four inches or other dangerous weapons, instruments, or materials. No one within the Town workplace, with the exception of a police agency, shall have in their possession a firearm or other dangerous weapon, instrument, or material that can be used to inflict bodily harm on an individual or damage to Town

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property without specific written authorization from the Town Supervisor regardless of whether the individual possesses a valid permit to carry the firearm or weapon. This restriction applies to firearms or weapons located in personal and commercial vehicles.

5. Harassing or threatening letters, phone calls, FAXs, text messages, instant messages, web-postings, e-mails, and other forms of communication.
6. Threats or attempts to commit suicide.
7. Stalking an employee with the intent to cause fear of material harm to the physical and mental safety and health of such employee when such stalking has arisen through and in the course of employment.

**Surveillance** includes unapproved photos and video on cell phones, cameras, and/or camcorders.

**Department Head** is the person designated to supervise the activities and operation of departments in Town of Big Flats Government. Department Heads are: Town Clerk, Town Supervisor, Public Works Department Commissioner or Superintendent, Town Assessor, Town Attorney and the two (2) Town Justices.

**Chair** is the appointed leader for the following Boards and Committees: Board of Assessment Review (BOAR), Planning Board, Zoning Board of Appeals (ZBA), or any other committee(s) appointed by the Town Board.

**Employee** is any person involved in the Town of Big Flats government including: paid employees, appointed individuals and volunteers appointed to various Boards and/or committees.

**Authorized employee representative** is an employee authorized by the employees or the designated representative of an employee organization recognized or certified to represent the employees pursuant to Article 14 of the Civil Service Law.

**Workplace** includes any Town-owned property (building, park, or parking lots), work site (road construction and maintenance, tree and brush trimming and cutting, roadside mowing, culvert / bridge construction and maintenance, and snow and ice control operations), other similar locations and activities, and Town-sponsored activities wherever located.

**Imminent Danger:** Any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by this Part.

**Retaliatory Action:** The discharge, suspension, demotion, penalization or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

**Serious physical harm:** Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ or a sexual offense as defined in Article 130 of the Penal Law.

**Serious Violation:** A serious violation of the public employer workplace violence prevention program (WVPP) is the failure to:

- (a) Develop and implement a program.
- (b) Address situations which could result in serious physical harm.

#### **E. Risk Factors**

Potential risk factors include but are not limited to:

- 1. Working in a public setting.
- 2. Working late night or early morning hours.
- 3. Exchanging money with the public.
- 4. Working alone or in small numbers.
- 5. Uncontrolled access to the workplace.
- 6. Areas of previous security problems.
- 7. Having and speaking of harmful activities

#### **F. Prevention Actions**

The methods the Town of Big Flats will use to prevent incidents of occupational assaults and homicides in the workplace include but are not limited to the following:

- 1. Making high-risk areas more visible to more people.
- 2. Installing good external lighting.
- 3. Using drop safes or other methods to minimize cash on hand.
- 4. Providing training in conflict resolution and nonviolent self-defense responses.
- 5. Establishing and implementing reporting systems for incidents of aggressive behavior.

#### **G. Reporting of Incidents**

##### **1. General Reporting Responsibilities**

Incidents of workplace violence, threats of workplace violence, or observations of workplace violence are not to be ignored by any employee of the Town. Workplace violence should promptly be reported to the appropriate Town official (see H. Responsibilities). Additionally, employees are encouraged to report behavior that they reasonably believe poses a potential for workplace violence as defined in subparagraph D



(Definitions). It is important that all employees of the Town take this responsibility seriously to effectively maintain a safe working and learning environment.

2. Imminent or Actual Violence

Any employee experiencing or witnessing imminent danger of or actual violence involving weapons or personal injury must immediately call 911 and then notify their supervisor.

3. Acts of Violence Not Involving Weapons or Injuries to Persons

Any employee who is the subject of a suspected violation of this policy involving violence without weapons or personal injury, or is a witness to such suspected violation, must report the incident to their supervisor, or in lieu thereof, to the Town Supervisor.

4. Commission of a Crime

All employees who believe a crime has been committed against them have the right and are encouraged to report the incident to the appropriate law enforcement agency. They must also report the incident to their supervisor, or in lieu thereof, to the Town Supervisor.

5. False Reports

Employees who make false and malicious complaints of workplace violence, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action and/or referral to civil authorities as appropriate.

6. Incident Reports

The Town Supervisor will maintain an incident report file for the Town.

7. Department of Labor

Any employee or an authorized employee representative of employees who believes that a serious violation of this safety or health standard exists, or an imminent danger exists, may request an inspection by the NY Department of Labor.

**H. Responsibilities**

1. Town Supervisor

The Town Supervisor shall be responsible for the implementation of this policy for all Town non-highway employees. The responsibility includes dissemination of this policy to all non-highway Town employees, ensuring appropriate investigation and follow-up of all alleged incidents of workplace violence, and ensuring that all department heads are aware of their responsibilities under this policy through internal communications and training. All hearings regarding alleged violations of this policy will be handled in accord with the Town's Employee Handbook.



## MINUTES OF THE WATER / TOWN BOARD MEETING OF MARCH 23, 2016

The Town Supervisor is responsible for responding to, intervening, and documenting all incidents of violence in the workplace for Town non-highway employees. The Town Supervisor will immediately log all incidents of workplace violence.

### 2. Highway Superintendent

The Highway Superintendent shall be responsible for the implementation of this policy for all Town highway employees. This responsibility includes dissemination of this policy to all Town highway employees, ensuring appropriate investigation and follow-up of all alleged incidents of workplace violence, and ensuring that the Town Supervisor is notified of all matters relating to the investigation and follow-up of all alleged incidents of workplace violence.

The Highway Superintendent is responsible for responding to, intervening, and documenting all incidents of violence in the workplace for Town highway employees. The Highway Superintendent will immediately log all incidents of workplace violence and notify the Town Supervisor of the alleged incident.

### 3. Department Heads/Chairs

All department heads should be knowledgeable of when law enforcement action may be appropriate. Department Heads and Chairs will be trained in workplace violence awareness and prevention, non-violent crises intervention, conflict management, and dispute resolution. The Town Supervisor will work closely with Department Heads and Chairs when the possibility of workplace violence is heightened, as well as on the appropriate response to workplace violence incidents consistent with Town policies, rules, procedures, New York State laws, rules, and regulations, Federal laws, rules, and regulations, and applicable labor agreements, including appropriate disciplinary action up to and including termination.

Each Department Head or Chair with supervisory responsibility is responsible within their area of jurisdiction for the implementation of this policy. Department Heads and Chairs must report to the Supervisor any complaint of workplace violence made to them and any other incidents of workplace violence of which they become aware or reasonably believes to exist. Department Heads and Chairs must inform the Town Supervisor promptly about any complaints, acts, or threats of violence even if the situation has been addressed and resolved. After having reported such complaint or incident to the Town Supervisor, the Department Head or Chair must keep it confidential and not disclose it further, except as necessary during the investigation process and/or subsequent proceedings.

Department Heads and Chairs are required to contact the police by immediately calling 911 in the event of imminent or actual violence involving weapons or potential physical injuries.

#### 4. Employees

Employees must report workplace violence, as defined above, to their Department Head or Chair. Recurring or persistent workplace violence that an employee reasonably believes is not being addressed satisfactorily, or violence that is, or has been, engaged in by the employee's Department Head or Chair should be brought directly to the attention of the Town Supervisor. A written complaint outlining all details is to be filed by the employee if he/she desires action to be taken. Once a written complaint is received the Town must conduct an investigation as soon as possible and that investigation is to lead to a written report of the findings and conclusion and any disciplinary action taken. At any time before the commencement of the investigation and while the investigation is being conducted steps may be taken by the Supervisor and/or department head to ameliorate the alleged problem.

Employees who have obtained Orders of Protection are expected to notify their Department Head, Chair, and the Town Supervisor of any orders that list Town locations as protected areas and provide them with a copy of the protective order.

Victims of domestic violence who believe the violence may extend into the workplace, or employees who believe that domestic or other personal matters may result in their being subject to violence extending into the workplace, are encouraged to notify their Department Head, Chair, or the Town Supervisor. Confidentiality will be maintained to the extent possible.

Upon hiring employees will receive a copy of this policy from the Bookkeeper. Additionally, the policy will be posted throughout the Town Hall complex and be placed on the Town website, as appropriate.

#### 5. Town Supervisor Responsibilities

The Town Supervisor is responsible for responding to workplace violence; facilitating appropriate responses to reported incidents of workplace violence; and consulting with, as necessary, counseling services to secure professional intervention. The Town Supervisor shall insure that employees receive appropriate training.

a. Workplace violence reports and recordkeeping: The employer shall develop and maintain a workplace violence incident report that can be in any format but at a minimum contains the following information:

- 1) Workplace location;
- 2) Time of day/ shift;
- 3) Incident description including what happened immediately prior to the incident and how the incident ended;
- 4) Names and job titles of involved employees;
- 5) Name or other identifier of individuals involved;
- 6) Extent of injuries;
- 7) Names of witnesses; and

8) An explanation of the actions the employer has or is in the process of taking to mitigate future incidents with a time table for correction where appropriate. Interim protective measures shall also be listed. The employer shall address global (all similar worksites) enhancements which become apparent are necessary to protect all employees.

b. Any employee or their representative who believes that a violation of the employer's workplace violence protection program exists, or that a workplace violence imminent danger exists, shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the employer a reasonable opportunity to correct such activity, policy or practice.

c. Written notice to an employer shall not be required where workplace violence creates an imminent danger to the safety of a specific employee or to the general health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

d. If following a referral of such matter to the employee's supervisor's attention and after a reasonable opportunity to correct such activity, policy or practice, the matter has not been resolved and the employee or the employee representative still believe that a violation of a workplace violence prevention program remains, or that an imminent danger exists, such employee may request an inspection by giving notice to the Commissioner of Labor of an alleged violation of this Part. Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice and shall be signed by such employee or their representative. A copy of the written notice shall be provided by the Commissioner to the employer or the person in charge no later than the time of inspection, except that at the request of the person giving such notice, such person's name and the names of individual employees or representatives of employees shall be withheld. Such inspection shall be made forthwith by the Commissioner

e. If the case is a "privacy concern case" as defined below, the employer shall still be liable for developing a Workplace Violence Incident Report as set forth above. However, before sharing a copy of such Report with any party other than the Commissioner, the employer shall remove the name of the employee who was the victim of the workplace violence and shall instead enter "PRIVACY CONCERN CASE" in the space normally used for the employee's name.

1. The employer shall treat incidents involving the following injuries or illnesses as privacy concern cases:

- (a) An injury or illness to an intimate body part or the reproductive system;
- (b) An injury or illness resulting from a sexual assault;
- (c) Mental illness;
- (d) HIV infection;
- (e) Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; and

(f) Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the Report.

f. Nothing in this part shall require the disclosure of information otherwise kept confidential for security reasons. Such information may include information which, if disclosed:

1. Would interfere with law enforcement investigations or judicial proceedings;
2. Would deprive a person of a right to a fair trial or impartial adjudication;
3. Would identify a confidential source or disclose confidential information relating to a criminal investigation;
4. Would reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
5. Would endanger the life or safety of any person.

The Bookkeeper is responsible for providing new employees with a copy of this Workplace Anti-Violence Policy and Procedures as well as posting the policy throughout the Town Hall's complex and on the Town's website, as appropriate.

## **I. Education**

The Town Supervisor is responsible for the dissemination and enforcement of this policy as described herein, as well as for providing opportunities for training in the prevention and awareness of workplace violence. Additionally, annual training in conflict resolution and nonviolent self-defense responses will be provided along with measures employees can take to protect themselves from such risks, such as appropriate work practices, emergency procedures, use of security alarms, and other devices. Literature and a video will be available when desired from the Town Supervisor for employees' self-training and refreshing. The Town Supervisor shall disseminate the policy to the Commissioner of Public Works who is then responsible to enforce the policy, as described herein to the Town Highway employees.

## **J. Confidentiality**

The Town shall maintain the confidentiality of investigations of workplace violence to the extent possible. The Town will act on the basis of anonymous complaints where it has a reasonable basis to believe that there has been a violation of this policy and that the safety and well-being of employees of the Town would be served by such action.

## **K. Retaliation**

Retaliation against anyone who has made a complaint of workplace violence, who has reported witnessing workplace violence, or who has been involved in reporting, investigating, or responding to workplace violence is a violation of this policy. Those

found responsible for retaliatory action will be subject to discipline as provided in appropriate laws, rules, regulations, and policies up to and including termination.

#### **L. Workplace Violence Incident Report**

Workplace violence should not be ignored and employees are encouraged to report incidents of violent behavior. Reporting of incidents will enable the Town to maintain a safe working environment. These incident reports shall be used to document specific incidents and should be kept in the incident report file with the Town Supervisor.

#### **M. Record Keeping**

Currently, the Town is required to record and report workplace violence incidents in accordance with New York State Labor Law, Section 27-a (Public Employer Safety and Health Act). NYCRR Part 801 of that Law, Recording and Reporting Public Employees Occupational Injuries and Illnesses, specifies conditions for employer recordkeeping and reporting requirements. Specifically, the Town is required to record an employee workplace violence injury if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid and loss of consciousness. Additionally, the Town will utilize accident and illness recordkeeping information to ensure that their written workplace violence prevention plan is as effective as possible.

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

#### RESOLUTION NO. 119-16 COMMUNICATION LOG, MARCH 23, 2016 APPROVED

Resolution by: Adams

Seconded by: Saglibene

BE IT RESOLVED that the following communications were received, accepted and filed by the Town Clerk of the Town of Big Flats and referred to the appropriate Department Head for information and/or action:

#### March 14, 2016

New York State of Opportunity Department of Public Service RE: New York State Electric & Gas, Proposed electric and Gas Rate Increase. *Referred to: Town Board, Department of Public Works, and filed with Town Clerk.*

#### March 16, 2016

Time Warner Cable – RE: March 16, 2016 Programming Notice Changes *Referred to: Town Board, and filed with Town Clerk.*

CARRIED: AYES: Saglibene, Adams, Gillette

NAYS: None

ABSENT: Fairbrother, Giammichele

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Deputy Supervisor Gillette made a motion, seconded by Councilperson Saglibene to enter into an executive session for legal advice from the attorney, for attorney client privilege and asked Ed Fairbrother( Town Supervisor who was sitting in the audience) to join in. All in favor except Supervisor Fairbrother, Councilman Giammichele who was absent, motion carried.

Deputy Supervisor Gillette reconvened the Town Board meeting at 8:20 p.m.

Councilmen Adams made a motion, seconded by Councilperson Saglibene to adjourn the Town Board meeting at 8:21 p.m. All in favor except Supervisor Fairbrother, Councilman Giammichele who was absent, motion carried.

Date approved: \_\_\_\_\_ Linda Cross  
Town Clerk